

2003 LEGISLATIVE SUMMARY



Virginia
Department of Taxation

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Tax Commissioner

INTRODUCTION

The **Legislative Summary** is published by the Department of Taxation (TAX) as a convenient reference guide to state and local tax legislation enacted by the 2003 Session of the General Assembly. It includes a general description of enacted legislation affecting:

- ◆ State taxes administered by TAX, and
- ◆ Local taxes for which TAX assists with administration or on which TAX renders advisory assistance.

The **Summary** also includes legislative studies in which TAX will be directly involved or acting in a technical support role. In general, however, legislation creating special taxing jurisdictions or affecting taxes administered by other state agencies is not included in the **Summary**.

The **Summary** is intended to provide a synopsis of enacted legislation and is for information purposes only. References to chapter numbers are to the corresponding chapters in the Acts of Assembly. The **Summary** is not a substitute for the actual state law, local ordinances, and TAX regulations. Additional information on new legislation affecting state taxes may be obtained from TAX at the following telephone numbers:

Individual Income Tax	(804) 367-8031
Email: tax-indivrtn@state.va.us	(Personal tax inquires)
Corporation Income Tax	(804) 367-8037
Sales and Use Tax	(804) 367-8037
Employer Withholding Tax	(804) 367-8037
Email: tax-busqtns@state.va.us	(Business tax inquires)
Voice/TDD	(804) 367-8329

Additional information on new local tax legislation should be obtained from your local Commissioner of the Revenue, Treasurer or Director of Finance.

Virginia Department of Taxation
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STATE TAX

LEGISLATION

GENERAL PROVISIONS

Virginia Tax Amnesty Program - New

House Bill 2454 (Chapter 52) and Senate Bill 1030 (Chapter 24) grant the Tax Commissioner the authority to administer an amnesty program during any 60 – 75 day period falling between July 2003 through June 2004. With certain exceptions, any taxpayer who currently has an outstanding assessment with the department or has not filed a return for any tax administered by the department, may apply for amnesty. The exceptions to those who are eligible for amnesty are as follows:

- Individual, corporation, and estate and trust income taxes for taxable years beginning on or after January 1, 2002;
- Any assessment outstanding for less than 90 days prior to the first day of amnesty;
- Any liability from an unfiled return with a due date less than 90 days prior to the first day of amnesty; and
- Taxpayers under investigation for fraud or intent to evade.

The Department will waive all penalties and 50% of the interest upon full payment of the remaining balance. Subject to guidelines and rules established by the Tax Commissioner, a new 20% penalty would be applied to the unpaid tax of any balance where a taxpayer who was eligible to participate in the Virginia Tax Amnesty Program elected not to do so.

Effective Date: July 1, 2003

Code Section Added: § 58.1-1840.1

Court Appeal to Seek Correction of State Tax Assessment; Modification of Payment Requirement - Amended

House Bill 2538 (Chapter 908) eliminates the current requirement that a taxpayer must pay an assessment of state taxes in order to appeal the assessment to the circuit court. However, the Tax Commissioner is authorized to petition the court to require the taxpayer to pay the assessment. If the Department shows to the satisfaction of the court that it is likely to prevail on the merits of the case, the taxpayer will be required to pay the assessment, post a bond or offer a letter of credit before proceeding with the appeal.

Under current law, a taxpayer cannot appeal an assessment to the circuit court unless the assessment is paid or a bond is posted within 90 days of the assessment.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-1825

INCOME TAX

Advancement of Virginia's Fixed Date of Conformity to the Internal Revenue Code - Amended

House Bill 2455 (Chapter 2) and Senate Bill 1049 (Chapter 163) advance Virginia's date of conformity to the Internal Revenue Code from December 31, 2001 to December 31, 2002. This legislation also states that Virginia does not conform to the special 30% bonus depreciation allowance allowed to certain assets under the Internal Revenue Code nor to the 5-year net operating loss carryback allowed for net operating losses generated in either taxable year 2001 or 2002.

Advancing Virginia's date of conformity forward by one year allows the provisions in the Victims of Terrorism Relief Act of 2001 and the Job Creation and Worker Assistance Act of 2002, except for the special 30% bonus depreciation and the 5-year net operating loss carryback, to flow through to Virginia taxpayers.

Effective Date: Taxable years beginning on or after January 1, 2001

Code Section Amended: § 58.1-301

Corporations

Subtraction for Avian Influenza Indemnification Payments – New

House Bill 2554 (Chapter 3) and Senate Bill 1026 (Chapter 58) create a corporate and individual income tax subtraction for indemnification payments received by qualified contract poultry growers and table egg producers as a result of the depopulation of poultry flocks because of the avian influenza in 2002. Indemnification payments made to owners of poultry who contract with poultry growers do not qualify for this subtraction.

Effective Date: Taxable years beginning on and after January 1, 2002, but before January 1, 2005

Code Sections Amended: §§ 58.1-322 and 58.1-402

Subtraction for Gains from Peanut Quota Buyout Program - New

House Bill 2400 (Chapter 209) creates a corporate and individual income tax subtraction for any gain recognized as a result of the payments made under the federal Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002. Any taxpayer receiving the buyout payment in installments would be allowed to subtract any gain from each payment as it is received. Any taxpayer receiving the buyout payment in a lump sum payment would be allowed to subtract 20% of the gain in the year in which the payment was received and would deduct 20% of the gain in each of the next four succeeding taxable years.

Effective Date: Taxable years beginning on and after January 1, 2002

Code Sections Amended: §§ 58.1-322 and 58.1-402

Returns of Affiliated Corporations - New

Senate Bill 1125 (Chapter 166) allows a group of affiliated corporations that has filed Virginia income tax returns on the same basis for at least the preceding 20 years to be granted permission to change the basis of the type of return filed from consolidated to separate or from separate or combined to consolidated only if: (1) the tax computed under the affiliated group's requested return basis would be equal or greater than the tax for the full taxable year immediately preceding the taxable year for which the requested return basis would be applicable; and (2) the affiliated group agrees to compute its tax liability under both the requested return basis and the elected return basis and pay the greater of the two amounts for the taxable year in which the requested return basis is effective and the immediately succeeding taxable year.

Effective Date: For applications filed with the Department on or after July 1, 2003

Code Section Amended: § 58.1-442

Change of Filing Date; Nonprofit Corporations - Amended

Senate Bill 935 (Chapter 376) changes the income tax return filing date for tax exempt organizations with unrelated business taxable income from the 15th day of the fourth month following the close of the taxable year to the 15th day of the sixth month following the close of the taxable year.

Effective Date: Taxable years beginning on or after January 1, 2003

Code Section Amended: § 58.1-441

Enterprise Zone Program; New Business Classification - New

Senate Bill 859 (Chapter 676) creates a new classification of businesses that are high in investment and limited in job creation. These businesses would be eligible for the general business tax credit authorized under the enterprise zone program. The credits granted for this classification are negotiable but limited to 80% of the tax due to the Commonwealth for the first taxable year and 60% of the tax due to the Commonwealth for the second through the tenth taxable years. Also, credits for this new classification may not exceed the estimated revenues generated from new Virginia income taxes that may result from the new permanent full-time positions within a five-year period.

Effective Date: July 1, 2003

Code Section Amended: § 59.1-280

Increased Penalty for Filing a Fraudulent Income Tax Return - Amended

House Bill 1576 (Chapter 180) changes the current criminal penalty from a Class 1 misdemeanor to a Class 6 felony for making a false statement on an individual, fiduciary, or corporate income tax return with the intent to defraud the Commonwealth or evade the payment of taxes.

Effective Date: July 1, 2003

Code Sections Amended: §§ 58.1-348 and 58.1-452

Individuals

Neighborhood Assistance Credits; Qualifying Professional Services - New

House Bill 1764 (Chapter 186) makes Neighborhood Assistance Act Credits available to professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, and physical therapists who donate time to perform health care services at a qualified health clinic.

Effective Date: July 1, 2003

Code Section Amended: § 63.2-2004

Subtraction for Military Death Gratuity Payments - New

House Bill 1624 (Chapter 181) creates an individual income tax subtraction for all military death gratuity payments paid after September 11, 2001 to the survivors of deceased military personnel killed in the line of duty. This subtraction is limited to the extent that the payments are included in federal adjusted gross income.

Effective Date: Taxable years beginning on and after January 1, 2001

Code Section Amended: § 58.1-322

Subtraction for Avian Influenza Indemnification Payments – New

House Bill 2554 (Chapter 3) and Senate Bill 1026 (Chapter 58) create a corporate and individual income tax subtraction for indemnification payments received by qualified contract poultry growers and table egg producers as a result of the depopulation of poultry flocks because of the avian influenza in 2002. Indemnification payments made to owners of poultry who contract with poultry growers do not qualify for this subtraction.

Effective Date: Taxable years beginning on and after January 1, 2002, but before January 1, 2005

Code Sections Amended: §§ 58.1-322 and 58.1-402

Subtraction for Gains from Peanut Quota Buyout Program - New

House Bill 2400 (Chapter 209) creates a corporate and individual income tax subtraction for any gain recognized as a result of the payments made under the federal Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002. Any taxpayer receiving the buyout payment in installments would be allowed to subtract any gain from each payment as it is received. Any taxpayer receiving the buyout payment in a lump sum payment would be allowed to subtract 20% of the gain in the year in which the payment was received and would deduct 20% of the gain in each of the next four succeeding taxable years.

Effective Date: Taxable years beginning on and after January 1, 2002

Code Sections Amended: §§ 58.1-322 and 58.1-402

Foreign Source Income Subtraction for Individuals - Repealed

House Bill 1914 (Chapter 980) repeals the individual income tax subtraction for foreign source income. However, any amount received in 2003 attributable to foreign source dividends that should have been paid in a prior taxable year pursuant to a final court order may be subtracted in taxable year 2003.

Effective Date: Taxable years beginning on and after January 1, 2003.

Code Section Amended: § 58.1-322

Increased Penalty for Filing a Fraudulent Income Tax Return - Amended

House Bill 1576 (Chapter 180) changes the current criminal penalty from a Class 1 misdemeanor to a Class 6 felony for making a false statement on an individual, fiduciary, or corporate income tax return with the intent to defraud the Commonwealth or evade the payment of taxes.

Effective Date: July 1, 2003

Code Sections Amended: §§ 58.1-348 and 58.1-452

Historic Resources Fund Check-off - Extended

House Bill 1913 (Chapter 10) extends the sunset date of the Historic Resources Fund check-off from January 1, 2004, to January 1, 2009. The Fund assists the Department of Historic Resources in the designation and preservation of historic resources.

Effective Date: Taxable years beginning on or after January 1, 2004

Code Section Amended: § 58.1-346.8

Virginia Commission for the Arts Check-off - New

Senate Bill 1096 (Chapter 878) creates an individual income tax check-off for voluntary contributions to the Virginia Commission for the Arts.

Effective Date: Taxable years beginning on or after January 1, 2004, but before January 1, 2009

Code Section Added: § 58.1-346.21*

Virginia Federation of Humane Societies Check-off – New

House Bill 1635 (Chapter 636) creates a new individual income tax check-off for The Virginia Federation of Humane Societies. Contributions will be used for saving, caring for, and finding homes for homeless animals.

Effective Date: Taxable years beginning on or after January 1, 2004, but before January 1, 2009

Code Section Added: § 58.1-346.21*

Tuition Assistance Grant Fund Check-off – New

House Bill 1635 (Chapter 636) creates a new individual income tax check-off for the Tuition Assistance Grant Fund. Contributions will be used to provide monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate programs in private Virginia colleges.

Effective Date: Taxable years beginning on or after January 1, 2004, but before January 1, 2009

Code Section Added: § 58.1-346.22*

Spay and Neuter Fund Check-off – New

House Bill 1635 (Chapter 636) creates a new individual income tax check-off for the Spay and Neuter Fund. Contributions will be used in the Fund's mission of providing monetary assistance for spay and neuter surgeries for dogs and cats.

Effective Date: Taxable years beginning on or after January 1, 2004, but before January 1, 2009

Code Section Added: § 58.1-346.23*

*** Code references are those shown in chapterized bills. Actual code section numbers will be assigned by the Virginia Code Commission.**

Employer Withholding Tax

Additional Withholding Allowances – Repealed

House Bill 1400 (Chapter 1042) repeals legislation enacted in 1989 that allowed taxpayers who itemize their deductions to claim additional withholding exemptions. The effective date of the 1989 legislation had been previously deferred on numerous occasions.

Effective Date: January 1, 2003

Code Sections Amended: §§ 58.1-461, 58.1-462, and 58.1-470

Section Added: § 3-5.05 of the 2003 Appropriations Act

Payment of Withholding Tax Via Electronic Funds Transfer by Payroll Processing Firms- Amended

House Bill 2351 (Chapter 36) and Senate Bill 833 (Chapter 39) require payroll processing firms to remit the withholding they collect on behalf of other taxpayers by an electronic funds transfer (“EFT”) payment. The payroll processing firms subject to this requirement are those who remit withholding payments on behalf of 100 or more employers. These firms are required to complete their EFT payment via an automated clearinghouse credit transaction.

Effective Date: July 1, 2004

Code Section Amended: § 58.1-202.1

RETAIL SALES AND USE TAX

Virginia Public Procurement Act; Certain Transactions Prohibited - New

House Bill 2533 (Chapter 994) and Senate Bill 938 (Chapter 1006) prohibit state agencies from purchasing goods or services from vendors who are required under Virginia's sales tax nexus laws to collect use tax on sales of goods delivered into Virginia but refuse to do so. State agencies are also prohibited from purchasing goods or services from vendors who are affiliated with such businesses.

Effective Date: July 1, 2003

Code Section Amended: § 2.2-4301

Code Section Added: § 2.2-4321.1

Medically Related Sales Tax Exemptions - Extended

House Bill 1754 (Chapter 911) and Senate Bill 742 (Chapter 916) extend to July 1, 2004, the sunset dates for certain medically related sales and use tax exemptions set to expire on July 1, 2003.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-609.7

Educationally Related Sales Tax Exemptions – Extended

House Bill 1754 (Chapter 911) and Senate Bill 742 (Chapter 916) extend to July 1, 2004, the sunset date for educationally related sales and use tax exemptions set to expire on July 1, 2003.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-609.4

Sales Tax Exemption; MacCallum More Museum and Gardens – New

House Bill 1754 (Chapter 911) and Senate Bill 742 (Chapter 916) provide a new retail sales and use tax exemption for the MacCallum More Museum and Gardens.

Effective Date: July 1, 2003

Code Sections Amended: § 58.1-609.9

Sales Tax Exemption for Printed Advertising Distributed Outside Virginia – Reinstated

House Bill 1754 (Chapter 911) and Senate Bill 742 (Chapter 916) reinstate a retail sales and use tax exemption for printed materials purchased by advertising businesses from Virginia printers for distribution outside of Virginia. The exemption includes newspaper supplements purchased by advertising agencies for placement in in-state or out-of-state publications. The exemption is retroactive to July 1, 2002, and ends July 1, 2004.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-609.6

Nonprofit Entities Eligible for Sales and Use Tax Exemptions Expanded - New

House Bill 2525 (Chapter 757) and Senate Bill 743 (Chapter 758) create an administrative process for granting sales and use tax exemptions to nonprofit organizations and establish standard criteria that will be used to qualify nonprofit organizations for sales and use tax exemptions. Effective July 1, 2004, all Internal Revenue Code § 501(c)(3) and charitable § 501(c)(4) organizations can qualify for a sales and use tax exemption provided the criteria established by this legislation are met. The Department of Taxation will administer this process.

Currently, new sales and use tax exemptions are granted to nonprofit organizations by the General Assembly. This legislation eliminates the need for nonprofit organizations to seek new sales and use tax exemptions through the legislature.

Current exemptions are grandfathered under the terms and conditions of the exemptions as they exist on June 30, 2003. Nonprofit organizations that already hold a valid exemption certificate issued by the Department of Taxation or hold a valid self-issued exemption certificate would continue to enjoy the same exemption. A filing schedule is established for grandfathered organizations to provide the same information required of organizations applying for an exemption under the new process. The grandfather clause preserves the exemption for nonprofit organizations that may not have a federal income tax exemption under Internal Revenue Code § 501(c)(3) or 501(c)(4). The clause also preserves exemptions held by some nonprofit organizations on sales of tangible personal property or purchases of taxable services.

The Department of Taxation, in consultation with the Virginia Coalition of Nonprofits and other interested parties, will develop rules and regulations needed to carry out the provisions of this legislation by July 1, 2004. The Department of Taxation will also file an annual report with the Chairmen of the House Finance Committee, the House Appropriations Committee, and the Senate Finance Committee by December 1 of each year beginning in 2004.

Effective Date: July 1, 2004

Code Sections Amended: §§ 15.2-1104.1, 30-19.1:3, 58.1-3, 58.1-609.10, 58.1-610, 58.1-623, 58.1-623.1, 58.1-3510.1, 58.1-3510.3, and 58.1-3818

Code Section Added: § 58.1-609.11

Code Sections Repealed: §§ 30-19.05, 58.1-608.2, 58.1-609.4, 58.1-609.7, 58.1-609.8, and 58.1-609.9

MISCELLANEOUS TAXES

Cigarette Tax

Enforcement of Requirements for Tobacco Product Manufacturers - New

House Bill 2536 (Chapter 798) creates new enforcement and notification provisions for the certification of cigarette brands that are compliant with the Master Settlement Agreement (MSA) and Virginia's Nonparticipating Manufacturer (NPM) statute.

This legislation requires every tobacco product manufacturer whose cigarettes are sold in Virginia to certify annually to the Tax Commissioner and the Attorney General that it is a participating manufacturer (PM) or NPM in compliance with the NPM statute. In addition to making this designation, each tobacco product manufacturer must include with its certification a list of brand families sold in Virginia and provide detailed information on how many units of each brand were sold in the Commonwealth for the preceding year. Only brands covered under the MSA or in the NPM escrow fund may be certified. All manufacturers must maintain records necessary for the certification for a period of five years. The first certification required under this legislation would be due on September 15, 2003.

In addition to this information, an NPM must certify that it (i) is either registered to do business in the Commonwealth or provide a registered agent in the Commonwealth, (ii) has established and maintained a qualified escrow fund under the NPM statute along with a summary of all activity of such escrow fund, and (iii) is in full compliance with the NPM statute. The Attorney General may request proof of any NPM escrow fund from the financial institution handling such fund.

The Attorney General will publish on the Internet a list of all brands that have been certified. This bill will also make it unlawful for any person to affix a Virginia tax stamp on any brand that is not published as certified by the Attorney General. Any person who does stamp a noncertified brand would be subject to the following penalties or actions: (1) a fine equal to the lesser of 500% of the value of the cigarettes or \$5,000, (2) confiscation of the illegally stamped cigarettes, (3) a Class 2 misdemeanor, and (4) the enforcement provisions prescribed under the Virginia Consumer Protection Act. The Attorney General is also allowed to obtain an injunction to stop the stamping of any noncertified brand.

If the Attorney General finds it necessary to remove a brand of an established NPM from the list of certified brands, then the Attorney General must give the NPM 30 days notice prior to the removal of such brand. The NPM may in this 30 days seek a temporary injunction to cease the removal from the list of approved brands or come into compliance with the applicable requirements. The Attorney General is allowed to recover all costs and fees necessary for any enforcement action from the violating party. If a court finds that a person has violated any of the provisions of this legislation or the

NPM statute, the court shall order all profits and gains from the illegal activity paid to the Commonwealth.

If a brand is removed from the published list, a person purchasing cigarettes for resale would be allowed to sell the cigarettes for 14 days from the removal of the brand from the list or, if the person is a retailer, the retailer would be permitted to sell the cigarettes to consumers for 14 days after purchasing the cigarettes. If the reseller retains any of the delisted cigarettes after the 14 days has expired, the reseller may seek a refund for the cigarettes from the person from whom the cigarettes were purchased and a refund of any tax stamps affixed to the delisted cigarettes from the Tax Commissioner.

Finally, this bill requires any person who is authorized to affix stamps to cigarettes or required to pay the excise tax on cigarettes to submit quarterly reports to the Tax Commissioner and the Attorney General. These reports should include a list by brand of the number of cigarettes that such person affixed stamps to during the previous quarter or otherwise paid the tax due for such cigarettes. The first report required under this legislation is due on August 1, 2003.

Effective Date: July 1, 2003

Code Sections Added: §§ 3.1-336.3 through 3.1-336.16

Delivery Requirements for Cigarette Sales to a Consumer in Virginia- New

Senate Bill 956 (Chapter 1010) provides new requirements for the delivery sale of cigarettes to the ultimate consumer in Virginia. Included in these new requirements are updated penalties on persons possessing or selling counterfeit cigarette tax stamps. The penalties range from a first violation with a total quantity of less than 40 counterfeit cigarette tax stamps that would be punishable by a fine of \$1,000 up to a subsequent violation with a total quantity of more than 40 counterfeit cigarette tax stamps that would be punishable by a fine of up to \$50,000. A violation under this provision would also result in the revocation by the Department of the wholesaler cigarette dealer license. Any cigarettes with counterfeit stamps would be subject to seizure and destruction under this bill.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-1015

Code Sections Added: §§ 18.2-246.6 through 18.2-246.15

Probate Tax

Increased Threshold of Estates Subject to Probate Tax - Amended

House Bill 1921 (Chapter 195) raises the filing threshold for the tax on wills and administration from \$10,000 to \$15,000. Currently, a tax of 1.04 per \$100 of a decedent's estate is imposed on the probate of every will or grant of administration not otherwise exempt, provided that the value of the decedent's estate exceeds \$10,000.

Effective Date: July 1, 2003

Code Sections Amended: §§ 8.01-606, 26-4, 37.1-144, 58.1-1712 and 58.1-1714

Tire Tax

Imposition of Tire Recycling Fee – New

Senate Bill 965 (Chapter 101) repeals the current tire tax of \$0.50 for each new tire sold and replaces it with a tire recycling fee of \$1.00 for each new tire sold. The repeal of the current tax and the imposition of the tire recycling fee are effective on July 1, 2003. The amount of the fee will remain at \$1.00 for each new tire sold until July 1, 2006. Beginning on July 1, 2006, the fee will be reduced to \$0.50 for each new tire sold. The increased revenues generated from July 1, 2003, to July 1, 2006, will be used to pay the costs of the removal of waste tire piles.

This bill also creates new procedures for the disposal of tires in the Commonwealth. Included in these procedures are new penalties and guidelines for determining liability in the event that an existing tire pile is set on fire.

Effective Date: July 1, 2003

Code Sections Amended: §§ 10.1-1418.3, 10.1-1422.3, 58.1-641, and 58.1-642

Code Sections Added: §§ 10.1-1418.4 and 10.1-1418.5

LOCAL TAX

LEGISLATION

GENERAL PROVISIONS

Collection of Local Taxes; Extending the Statute of Limitations - Amended

House Bill 2659 (Chapter 214) clarifies that local taxes and other charges that have been reduced to a judgment or a judgment lien in a suit relating to their collection are not subject to the five-year limitation period for the collection of delinquent taxes and may be collected so long as the judgment or judgment lien remains enforceable under general law.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3940

Modifications to the Local Business Tax Appeals Process - Amended

House Bill 1932 (Chapter 196) makes two changes to the Local Business Tax appeals process administered by the Department of Taxation. This bill requires the Tax Commissioner to determine within 30 days whether he has jurisdiction to hear an appeal of local business taxes. Further, this bill limits to 150 days (90 days plus a maximum 60-day extension) the time within which the Tax Commissioner must make a final determination on the merits of the appeal. If the Tax Commissioner is unable to make a determination within the prescribed time frame due to a lack of necessary information, he may, upon written notification to the affected parties, extend the timeframe for a determination for an additional 60 days after all relevant facts are received by him. The time limitations put forth in this legislation are applicable to the Local Business Tax appeals process and not the appeals process for the business, professional, and occupational license taxes.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3983.1

Discount for Early Payment of Taxes - New

House Bill 2715 (Chapter 216) permits counties, cities and towns to establish, by local ordinance, discounts for early payment of local taxes or assessments. Current law grants localities the option of assessing penalties and interest for late payment of taxes; however, there is no provision for discounts associated with early payment of local taxes.

Effective Date: July 1, 2003

Code Section Amended: § 15.2-1104

Code Section Added: § 15.2-1202.2

Increase of Administrative Fees to Collect Delinquent Liabilities - Amended

Senate Bill 1227 (Chapter 170) allows localities to increase the fees that may be charged for administrative costs incurred in the collection of delinquent taxes or other delinquent charges. The maximum fee charged to cover administrative costs for delinquent taxes and other charges collected subsequent to the filing of a warrant but prior to judgment will increase from \$20 to \$30. The maximum fee for collection of delinquent taxes and other charges collected subsequent to judgment will also increase, from \$25 to \$35.

Effective Date: Delinquent taxes and other delinquent charges collected on or after July 1, 2003

Code Section Amended: § 58.1-3958

REAL ESTATE TAX

Buildings Substantially Completed or Fit for Use and Occupancy – Amended

House Bill 1673 (Chapter 6) and Senate Bill 1285 (Chapter 581) authorize any city or county adjacent to or any city surrounded by Fairfax County, upon adoption of an ordinance, to assess new buildings when they are substantially completed or fit for use and occupancy, regardless of the date of completion or fitness. For any assessment made after November 1 in any year, the affected jurisdictions are authorized to charge a penalty for late payment until the later of December 5 or thirty days following the date of billing.

Under current law, only Fairfax County has this authority. Other localities cannot assess real estate taxes on new buildings that are substantially completed after October 31 until January of the succeeding year.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3292.1

Land Use Assessment Eligibility for Aquaculture and Specialty Crops - Amended

House Bill 2056 (Chapter 356) allows localities to set by ordinance a minimum acreage that may be less than five acres for land that is used for aquaculture or for raising specialty crops to be eligible for agricultural or horticultural land use assessment.

Under current law, real estate devoted to agricultural or horticultural use must consist of a minimum of five acres to be eligible for special land use assessment.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3233

Property Condemnations; Reimbursement of Taxes Paid - Amended

Senate Bill 990 (Chapter 680) requires localities in condemnation proceedings to reimburse owners of real property or other persons legally obligated to pay the real property taxes, for the pro rated portion of property taxes paid for that period after the date of title vesting or the effective date of possession, whichever is earlier.

Effective Date: July 1, 2003

Code Section Amended: § 15.2-1904

Installment Agreements for Payment of Delinquent Taxes - Amended

Senate Bill 1183 (Chapter 168) eliminates the requirement for the recording of installment agreements between local officers and owners of real property for the payment of delinquent real estate taxes.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3965

Sale of Property for Delinquent Taxes or Liens - Amended

House Bill 2277 (Chapter 16) and Senate Bill 735 (Chapter 156) allow a locality, in lieu of a public sale at auction, to petition the circuit court to appoint a special commissioner to execute the necessary deed to convey real estate to the locality if the delinquent tax alone on the real estate exceeds 25% of the assessed value of the real estate in any proceeding for the sale of real estate.

Under current law, real estate is not eligible to participate in this process unless the taxes, liens, penalty and accumulated interest exceed 50% of the assessed value of the parcel.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3970.1

Classification of Real Property Improvements in Roanoke City - New

Senate Bill 1095 (Chapter 164) reclassifies improvements to real property located in the City of Roanoke as a separate class of real property. As a result, the City of Roanoke is authorized to impose a real property tax on the improvements at a tax rate that does not exceed the rate applicable to the land on which the improvements are made.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3221.1

Assessment Appeals to Boards of Equalization and Circuit Court – Amended

House Bill 2503 (Chapter 1036) permits taxpayers to make fair market value appeals to a board of equalization. For such appeals, this legislation provides a presumption that the assessment is correct and the taxpayer must produce substantial evidence that the assessment is erroneous and was not arrived at in accordance with generally accepted appraisal practice in order to receive relief from the board.

This legislation also limits board members to 9 years of consecutive service and requires thirty percent of the members of boards of equalization to have a real estate, legal or financial background with at least one such member sitting in all appeals involving business properties, unless waived by the taxpayer. Additionally, each member of a board of equalization is required to take continuing education instruction at least once in every 4 years of service.

Finally, this legislation provides a phased-in, 3-year statute of limitations for appealing real estate tax assessments to circuit courts in those localities that currently have a 1-year statute of limitations.

Effective Date: July 1, 2003

Code Sections Amended: §§ 15.2-717, 58.1-3256, 58.1-3360, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380, 58.1-3384, and 58.1-3984

MISCELLANEOUS TAXES

Admissions Tax

Lower Admissions Tax Rate for Private Venues – Amended

House Bill 2045 (Chapter 12) authorizes any city or town that imposes the local admissions tax to impose the tax at a lower rate on admissions paid for events held at privately-owned facilities than the rate imposed for events held at civic centers, stadiums and amphitheaters owned by the city or town.

Current law provides that cities and towns that have general taxing authority in their charters may impose an excise-tax on admissions. Current law does not refer to a rate differential between municipally owned and privately-owned facilities.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3840

Transient Occupancy Tax

Cumberland, King George and Prince Edward Counties Authorized to Impose Additional Tax - Amended

Senate Bill 722 (Chapter 939) authorizes the counties of Cumberland, King George and Prince Edward to impose an additional transient occupancy tax at a rate not to exceed five percent. The revenues collected from that portion of the tax over the two-percent rate must be spent for promoting tourism, travel or business that generates tourism in the county.

Currently, any county may impose a transient occupancy tax at a maximum rate of two percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. King George County currently imposes a transient occupancy tax at the rate of two percent. The counties of Cumberland and Prince Edward do not impose a transient occupancy tax.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3819

Meals Tax

Increased Penalties for the Wrongful Use of Food and Beverage Tax and Meals Tax Revenue - Amended

House Bill 2089 (Chapter 792) provides that the wrongful and fraudulent use of funds collected by restaurants and other businesses from the local food and beverage tax and the local meals tax constitutes embezzlement pursuant to Va. Code § 18.2-111. This statute deems embezzlement to be larceny and is punishable in accordance with the larceny statute, Va. Code § 18.2-95.

Under current law, all food and beverage tax collections and all meals tax collections are deemed held in trust for the county, city or town imposing the applicable tax. Under the general local tax enforcement provisions, any person who willfully fails to collect or truthfully account for and pay over the local food and beverage tax (and other local taxes held in trust) is guilty of a Class 1 misdemeanor.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3833

Consumer Utility Tax

Imposition of Telecommunications Consumer Utility Tax in Select Towns - Amended

House Bill 1558 (Chapter 179) authorizes the towns of Gordonsville, Colonial Beach and Montross to impose a consumer utility tax on telegraph and telephone companies. This bill also provides that at such time as the ordinance is enacted by Gordonsville, Orange County may no longer impose the consumer utility tax within the town limits of Gordonsville. Likewise, at such time as the ordinance is enacted by Colonial Beach or Montross, Westmoreland County may no longer impose the tax within the limits of the town enacting the ordinance.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3812

Taxation of Bundled Transactions - Amended

Senate Bill 858 (Chapter 160) provides that communications services that are not subject to the local consumer utility taxes on telecommunications services will continue to be nontaxable when bundled with taxable communications services when the provider can identify the portion of the charge attributable to the nontaxable services from its books and records. This legislation also provides that if communications services subject to the consumer utility taxes on telecommunications services are taxable at different rates, the highest rate will not apply to the entire bundle of communications services if the provider can identify the portion of the charge attributable to the services subject to a lower rate from its books and records.

Under current law, when a provider bundles taxable and nontaxable charges for mobile telecommunications services, the charges for the nontaxable services continue to be nontaxable when the provider can identify the nontaxable portion from its books and records.

Effective Date: July 1, 2003

Code Sections Amended: §§ 56-484.12 and 58.1-3812

Personal Property Tax

Property Tax Exemptions Approved by Localities – Amended

House Bill 1750 (Chapter 1032) establishes the process localities must follow when exempting from real or personal property taxes property that is owned by nonprofit organizations and used for religious, charitable, patriotic, benevolent, cultural or public park or playground purposes. This legislation also requires local governing bodies to consider the same issues as the General Assembly was required to consider when determining whether to pass a resolution supporting an exemption request. Further, this legislation clarifies that exemptions granted by the General Assembly prior to January 1, 2003 remain in effect as long as the ownership and use of the property do not change.

Effective Date: January 1, 2003

Code Section Amended: § 58.1-3651

Code Sections Repealed: §§ 30-19.04 and 30-19.1:2

Situs for Assessment of Motor Vehicles - Amended

House Bill 2323 (Chapter 34) and Senate Bill 1033 (Chapter 43) provide that the situs for business vehicles with a weight of 10,000 pounds or less registered in Virginia and used in a business shall be the jurisdiction in which the owner of such business: (1) is required to file a tangible personal property tax return for any vehicle used in the business, and (2) has a definite place of business from which the use of the business vehicle is directed or controlled. In addition, the owner must have sufficient evidence that he has paid the personal property tax to such jurisdiction.

Current law provides that for purposes of the tangible personal property tax, vehicles shall be assessed by the jurisdiction in which they are normally garaged, docked or parked. It makes no distinction between business vehicles and personal vehicles.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3511

Pollution Control Equipment Definition Expanded - Amended

House Bill 2726 (Chapter 859) adds any equipment used to grind, chip, or mulch trees, tree stumps, underbrush and other vegetative cover for reuse as mulch, compost or fuel to the definition of certified pollution control equipment and facilities for property tax classification purposes. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation.

Effective Date: July 1, 2003

Code Sections Amended: §§ 58.1-609.3 and 58.1-3660

LEGISLATIVE

STUDIES

HJ 651: Study of Local Taxation of the Telecommunications Industry

The Joint Subcommittee to Study the State and Local Taxation of the Entire Telecommunications Industry and Its Customers within the Commonwealth is directed to continue its study. This joint subcommittee will continue to examine state and local taxes imposed on the telecommunications industry and its customers to ensure that the taxes imposed on this industry are fair and equitable to all elements of the telecommunications industry, and its customers, and are relatively easy to administer and collect. All agencies of the Commonwealth will provide technical assistance to the joint subcommittee upon request.

This subcommittee will provide recommendations to the joint subcommittee now studying the revision of Virginia's State Tax Code or any similar group created during the 2003 session by August 1, 2003, and will submit its recommendations and written findings to the Governor and 2004 Session of the General Assembly.

SJ 347: Commission on the Revision of Virginia's State Tax Code and the Streamlined Sales Tax Project Agreement

The Commission on the Revision of Virginia's State Tax Code and the Streamlined Sales Tax Project Agreement is established to: (i) examine the allocation of state and local government services and responsibilities; (ii) conduct a comprehensive review of the revenue impact of all tax preferences, including subtractions, deductions, credits, and exemptions; (iii) evaluate the tax rates for all major state taxes to determine their sufficiency and appropriateness in the modern economy; and (iv) consider the appropriateness of adopting the policies in the Streamlined Sales Tax Project Agreement and identify and evaluate changes that may be needed in Virginia's sales and use tax laws to facilitate Virginia's compliance with the agreement should the General Assembly decide to adopt such policies. The Commission must complete its meetings by November 30, 2003, and submit an executive summary of its findings and recommendations no later than the first day of the 2004 Regular Session of the General Assembly.

SJ 355: Sale of Local Delinquent Tax Properties Process

The Commission on Growth and Economic Development is directed to include in its study a review of the local delinquent tax sale process to identify areas of which the existing state statutes may be unnecessarily complicated, time-consuming, or costly to localities. All state agencies of the Commonwealth will provide assistance to the Commission, upon request. The Commission shall submit its findings and recommendations to the Governor and the 2004 Session of the General Assembly by the opening day of the 2004 Session.

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